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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telephone Number Portability)

CC Docket No. 95-116

**SUPPLEMENTAL COMMENTS
OF NENA**

The National Emergency Number Association ("NENA") responds to the Commission's Public Notice, DA 96-358, released March 14, 1996, inviting comment on how passage of the Telecommunications Act of 1996, P.L. 104-104 ("1996 Act"), "may affect the issues" in the above-captioned proceeding. NENA filed brief comments and reply comments in the docket on September 12 and October 12, 1995, respectively.

The 1996 Act calls upon each telecommunications carrier to "provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."¹ Number portability is defined as:

[T]he ability of users of telecommunications services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability or convenience when *switching from one telecommunications carrier to another*. (emphases added)²

¹ New section 251(b)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §151 *et seq.*

² Section 3 of the 1996 Act, new subsection (r)(46) of Section 3 of the Communications Act.

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On its face, the language appears to exclude two of the three types of number portability identified in the Notice of Proposed Rulemaking (“Notice”) in this docket.³ The restriction to “same location” rules out location portability, while the reference to carrier-switching would appear to exclude retention of a number when changing services, within the Notice’s meaning of service portability.

To be sure, the House measure sent to conference would have allowed a limited degree of location portability: “user continues to be located within *the area served by the same central office* of the carrier from which the user is changing.”⁴ The Senate bill, S.652, contained the definition of number portability ultimately enacted, but did not further explain the meaning of “same location.” In NENA’s view, however, it would be a stretch to read the term more broadly than the House’s “area served by the same central office.”⁵

Congress limited the Commission’s prescription of rules in other ways as well. It said that the implementation of number portability should be technically feasible and should not impair the quality, reliability or convenience of the use of the retained telecommunications number. This tracks with the Notice’s tentative conclusion (§41) that “a number portability environment should support operator services and enhanced 911 services.” The important difference between these two categories,

³ *Telephone Number Portability*, 10 FCC Rcd 12350 (1995), §§ 13, 21-26.

⁴ H.R. Rept. 104-204 (to accompany H.R. 1555), 104th Cong., 1st Session, 46, *emphasis added*.

⁵ The conference report describes the House as receding to the Senate on the definition of number portability and several other terms. H.R. Rept. 104-458, 104th Cong., 2d Session, 116.

however, is that a few seconds delay may not matter in the former but be life-threatening in the latter.

At page 2 of its Reply Comments of October 12th, NENA showed how certain proposed number portability solutions would degrade a user's access to 9-1-1 and E9-1-1 services. These concerns come into sharper focus with the legislative injunction that quality and reliability should not be impaired.

In light of the foregoing, NENA believes that the FCC, in the near term, should confine any number portability requirements to changes of service providers within common serving areas, as discussed above. While the 1996 Act does not speak explicitly to service portability, as it does to provider and location portability, any mandate for service portability should be issued only after careful consideration of whether Congress meant to occupy the entire field by its recent legislation.

Respectfully submitted,

NATIONAL EMERGENCY NUMBER ASSOCIATION

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